

ENTERED

February 09, 2023

Nathan Ochsner, Clerk

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
MCALLEN DIVISION**

IN RE:	§	
JOSE SR. TREVINO	§	CASE NO: 10-70594
and	§	
TERESA TREVINO,	§	CHAPTER 13
 Debtors.	§	
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TERESA TREVINO	§	
and	§	
JOSE SR. TREVINO,	§	
 Plaintiffs,	§	
 VS.	§	ADVERSARY NO. 13-7031
 U.S. BANK TRUST, N.A.	§	
and	§	
CALIBER HOME LOANS, INC.,	§	
 Defendants.	§	

JUDGEMENT
Resolving ECF Nos. 374, 390, 466, and 470

Pending before the Court are several matters self-styled as (1) “Application Of Plaintiffs’ Counsel For Allowance Of Compensation And Reimbursement Of Expenses”¹ filed on May 15, 2020, by Jose and Teresa Trevino; (2) “Defendants’ Objection To Application Of Plaintiffs’ Counsel For Allowance Of Compensation And Reimbursement Of Expenses”² filed on August 14, 2020, by U.S. Bank Trust, N.A., as trustee for LSF8 Master Participation Trust, and Caliber Home Loans, Inc.; (3) “Supplemental Application Of Plaintiffs’ Counsel For Allowance Of Compensation And Reimbursement Of Expenses”³ filed on January 10, 2022, by Jose and Teresa Trevino; and (4) “The Caliber Parties’ Objection To The Supplemental Application Of Plaintiffs’ Counsel For Allowance Of Compensation And Reimbursement Of Expenses”⁴ filed on February 7, 2022, by U.S. Bank Trust, N.A., as trustee for LSF8 Master Participation Trust, and Caliber Home Loans, Inc.

¹ ECF No. 374.

² ECF No. 390

³ ECF No. 466.

⁴ ECF No. 470.

On September 19, 2022, the Court conducted a four day trial which ended on September 22, 2022. For the reasons set forth in this Court's accompanying Memorandum Opinion it is therefore:

ORDERED: that

1. “Defendants’ Objection To Application Of Plaintiffs’ Counsel For Allowance Of Compensation And Reimbursement Of Expenses”⁵ filed on August 14, 2020, by U.S. Bank Trust, N.A., as trustee for LSF8 Master Participation Trust, and Caliber Home Loans, Inc. is SUSTAINED in part and OVERRULED in part as follows:
 - a. U.S. Bank Trust, N.A. and Caliber Home Loans, Inc.’s objection that, “[t]he Trevinos Should Be Denied Their Attorneys’ Fees and Expenses Because the Fee Applicants Failed to Obtain Court Approval to Represent the Trevinos and Failed to Timely Disclose Their Fee Arrangements with the Trevinos”⁶ is SUSTAINED in part. Given Kellett & Bartholow, PLLC and Stone Curtis, PLLC’s failure to timely file the required disclosures under Rule 2016(b) and comply with Local Rule 2014-1(d), this Court finds it appropriate to reduce any award for fees to Kellett & Bartholow, PLLC and Stone Curtis, PLLC by 50%.
 - b. U.S. Bank Trust, N.A. and Caliber Home Loans, Inc.’s objection that, “[t]he KB Firm Has Failed to Justify Its High Hourly Rates as Being Within the Prevailing Hourly Rates for Similar Work in the McAllen Community”⁷ is OVERRULED.
 - c. U.S. Bank Trust, N.A. and Caliber Home Loans, Inc.’s objection that, “[t]he Results Obtained Do Not Support the Trevinos’ Request for Fees”⁸ is SUSTAINED and Kellett & Bartholow, PLLC and Stone Curtis, PLLC’s overall fees will be reduced by an additional 20% to account for the results obtained.
 - d. U.S. Bank Trust, N.A. and Caliber Home Loans, Inc.’s objection that, “[t]he Trevinos’ Claims Were Neither Complex Nor Novel”⁹ is OVERRULED.
 - e. U.S. Bank Trust, N.A. and Caliber Home Loans, Inc.’s objection that, “[t]he Time Spent by the Trevinos’ Counsel in Litigating the Claims Was Wholly Unreasonable”¹⁰ is SUSTAINED in part and the Court disallows \$141,239.50 in unnecessary and unreasonable attorneys’ fees sought by Kellett & Bartholow, PLLC.

⁵ ECF No. 390.

⁶ *Id.* at 7-11.

⁷ *Id.* at 18-19.

⁸ *Id.* at 11-15.

⁹ *Id.* at 15-18.

¹⁰ *Id.*

- f. U.S. Bank Trust, N.A. and Caliber Home Loans, Inc.'s objection that, "[t]he Fee Application is replete with instances of top-heavy billing, overstaffing, and overbilling for the tasks involved"¹¹ is SUSTAINED and the Court disallows \$10,630 in unnecessary and unreasonable attorneys' fees sought by Kellett & Bartholow, PLLC.
 - g. U.S. Bank Trust, N.A. and Caliber Home Loans, Inc.'s objection that, "[d]efendants' offer of judgment early in the adversary proceeding warrants a substantial reduction to Plaintiffs' requested fees"¹² is OVERRULED.
 - h. Each reduction outlined above has already been subsumed into the attorneys' fees and expenses awarded to Kellett & Bartholow, PLLC and Stone Curtis, PLLC from Jose and Teresa Trevino's "Application Of Plaintiffs' Counsel For Allowance Of Compensation And Reimbursement Of Expenses"¹³
2. "Application Of Plaintiffs' Counsel For Allowance Of Compensation And Reimbursement Of Expenses"¹⁴ filed on May 15, 2020, by Jose and Teresa Trevino is GRANTED in part and DENIED in part as follows:
 - a. \$195,947.00 in reasonable and necessary attorneys' fees are awarded to Jose and Teresa Trevino's counsel, Kellett & Bartholow, PLLC.
 - b. \$6,967.91 in reasonable and necessary attorneys' fees are awarded to Jose and Teresa Trevino's counsel, Stone Curtis, PLLC.
 - c. \$44,054.64 in reasonable and necessary expenses are awarded to Jose and Teresa Trevino's counsel, Kellett & Bartholow, PLLC.
 - d. \$2,454.17 in reasonable and necessary expenses are awarded to Jose and Teresa Trevino's counsel, Stone Curtis, PLLC.
 - e. All other attorneys' fees and expenses sought by Jose and Teresa Trevino in their "Application Of Plaintiffs' Counsel For Allowance Of Compensation And Reimbursement Of Expenses" filed May 15, 2020, not expressly granted are DENIED.
 3. "The Caliber Parties' Objection To The Supplemental Application Of Plaintiffs' Counsel For Allowance Of Compensation And Reimbursement Of Expenses"¹⁵ filed on February 7, 2022, by U.S. Bank Trust, N.A., as trustee for LSF8 Master Participation Trust, and Caliber Home Loans, Inc. is SUSTAINED in part and OVERRULED in part as follows:

¹¹ *Id.* at 18.

¹² *Id.* at 19-20.

¹³ ECF No. 374.

¹⁴ ECF No. 374.

¹⁵ ECF No. 470.

- a. U.S. Bank Trust, N.A. and Caliber Home Loans, Inc.'s objection that, "[t]he Applicants Should Not Be Awarded Their Fees and Expenses Related to the Defense of Their Fee Application Pursuant to Section 105(a) of the Bankruptcy Code"¹⁶ is OVERRULED.
- b. U.S. Bank Trust, N.A. and Caliber Home Loans, Inc.'s objection that, "The Applicants Should Not Be Awarded Their Fees and Expenses Related to the Defense of Their Fee Application Pursuant to 1692k"¹⁷ is OVERRULED.
- c. U.S. Bank Trust, N.A. and Caliber Home Loans, Inc.'s objection that, "[t]he Applicants' Requested Fees and Expenses in the Supplemental Application Are Unreasonable, and They Were Not Necessary to Applicants' Representation of the Trevinos in this Adversary Proceeding"¹⁸ is SUSTAINED in part and OVERRULED in part as follows:
 - i. U.S. Bank Trust, N.A. and Caliber Home Loans, Inc.'s objection that certain block-billed entries be disallowed entirely¹⁹ is SUSTAINED in part and the Court reduces these entries by 30% from \$8,475 to \$5,932.50.
 - ii. U.S. Bank Trust, N.A. and Caliber Home Loans, Inc.'s objection that certain billing entries for inter-office conferences should be disallowed entirely²⁰ is SUSTAINED and the Court disallows these entries totaling \$4,563.00.
 - iii. U.S. Bank Trust, N.A. and Caliber Home Loans, Inc.'s objection that certain billing entries should be disallowed entirely as excessive²¹ is OVERRULED.
 - iv. U.S. Bank Trust, N.A. and Caliber Home Loans, Inc.'s objection that Kellett & Bartholow, PLLC, excessively staffed and used high rate attorneys²² is OVERRULED.
- d. U.S. Bank Trust, N.A. and Caliber Home Loans, Inc.'s objection that Kellett & Bartholow, PLLC are not entitled to fees and expenses for appellate work in this case²³ is OVERRULED without prejudice as the issue is not ripe for consideration.
- e. Each reduction outlined above has already been subsumed into the attorneys' fees and expenses awarded to Kellett & Bartholow, PLLC from Jose and Teresa

¹⁶ *Id.* at 4-13.

¹⁷ *Id.* at 13-15.

¹⁸ *Id.* at 15-20.

¹⁹ *Id.* at 17.

²⁰ *Id.* at 17-18.

²¹ *Id.* at 18.

²² *Id.* at 18-19.

²³ *Id.* at 20.

Trevino's "Supplemental Application Of Plaintiffs' Counsel For Allowance Of Compensation And Reimbursement Of Expenses"²⁴ filed on January 10, 2022.

4. "Supplemental Application Of Plaintiffs' Counsel For Allowance Of Compensation And Reimbursement Of Expenses"²⁵ filed on January 10, 2022, by Jose and Teresa Trevino is GRANTED in part and DENIED in part as follows:
 - a. \$34,501.20 in reasonable and necessary attorneys' fees are awarded to Jose and Teresa Trevino's counsel, Kellett & Bartholow, PLLC.
 - b. \$392.40 in reasonable and necessary expenses are awarded to Jose and Teresa Trevino's counsel, Kellett & Bartholow, PLLC.
 - c. All other attorneys' fees and expenses sought by Jose and Teresa Trevino in their "Supplemental Application Of Plaintiffs' Counsel For Allowance Of Compensation And Reimbursement Of Expenses"²⁶ filed on January 10, 2022, are DENIED.
5. U.S. Bank Trust, N.A., as trustee for LSF8 Master Participation Trust, and Caliber Home Loans, Inc. are jointly and severally liable to Kellett & Bartholow, PLLC for \$230,448.20 in attorneys' fees and \$44,447.04 in expenses.
6. U.S. Bank Trust, N.A., as trustee for LSF8 Master Participation Trust, and Caliber Home Loans, Inc. are jointly and severally liable to Stone Curtis, PLLC for \$6,967.91 in attorneys' fees and \$2,454.17 in expenses.
7. From February 9, 2023, up until all of the above referenced amounts are paid in full, post-judgment interest of 4.70% per annum²⁷ shall accrue to each of:
 - a. the \$230,448.20 in attorneys' fees and \$44,447.04 in expenses owed to Kellett & Bartholow, PLLC.
 - b. The \$6,967.91 in attorneys' fees and \$2,454.17 in expenses owed to Stone Curtis, PLLC.
8. All relief requested but not expressly granted herein is DENIED.
9. This is a final judgment.

²⁴ ECF No. 466.

²⁵ ECF No. 466.

²⁶ ECF No. 466.

²⁷ Post-Judgment Interest Rates, United States District & Bankruptcy Court Southern District of Texas, <http://www.txs.uscourts.gov/page/post-judgment-interest-rates> (last visited February 9, 2023); ECF No. 342.

SIGNED February 9, 2023



Eduardo V. Rodriguez
Chief United States Bankruptcy Judge